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In the Matter of:	)	
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Amendment of Parts 21 and 74	)	WT Docket No. 02-68
of the Commission's Rules With Regard to	)	RM-9718
Licensing in the Multipoint Distribution	)	
Service and in the Instructional Television	)	
Fixed Service for the Gulf of Mexico	)	
	)	

Stratos Offshore Services Company ("Stratos Offshore") hereby files these comments in the above-captioned proceeding regarding licensing of the Multipoint Distribution Service ("MDS") in the Gulf of Mexico ("the Gulf").<sup>1</sup> With its extensive terrestrial microwave network and satellite service offerings, Stratos Offshore is one of the leading providers of critical communications capacity for companies, including oil and gas companies, operating in the Gulf. These customers rely upon Stratos Offshore for communications that not only contribute to the companies' core business, but in addition, ensure the safety of their workers and the environment. Accordingly, Stratos Offshore has a direct interest in this proceeding, which seeks to introduce a new communications service to customers operating in the Gulf.

<sup>1</sup> See *Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Licensing in the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico*, FCC 02-101 (rel. May 3, 2002) ("*Gulf MDS NPRM*").

At the outset, Stratos Offshore would like to emphasize its strong support for licensing MDS spectrum in the Gulf. Stratos looks forward to providing the same high speed and high capacity data two-way service in the Gulf that the Commission has already licensed on the land in the United States. This wireless broadband service will expand the range of telecommunications services for users in the Gulf.

**I. THE COMMISSION SHOULD DEFER LICENSING MDS IN THE GULF UNTIL IT HAS ADDRESSED PROPOSED MDS INDUSTRY CHANGES TO THE MDS/ITFS RULES**

While Stratos Offshore is looking forward to offering MDS in the Gulf, it can only participate in an auction for such spectrum and develop its MDS business plans if it knows the rules that will govern MDS operations. While the *Gulf MDS NPRM* intends to do this, a recent submission by the Wireless Communications Association International ("WCA") suggests that the rules proposed in the *MDS Gulf NPRM* will be outdated before they are even adopted. Accordingly, Stratos Offshore suggests deferring the *Gulf MDS NPRM* until forthcoming MDS/ITFS industry proposals are made public and considered by the Commission.

Specifically, the Motion to Defer recently submitted by WCA suggests that significant changes to the MDS/ITFS rules will soon be proposed to the Commission.<sup>2</sup> According to WCA, it "is well-along in the process of recommending comprehensive rule changes that will result in a sweeping overhaul of the technical and licensing rules for [MDS and ITFS]."<sup>3</sup> As set forth in WCA's Motion, numerous industry representatives, including

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<sup>2</sup> See WCA Motion to Defer (filed June 14, 2002) ("WCA Motion").

<sup>3</sup> *Id.* at 1.

representatives from service providers and manufacturers, have been intensely working for months on these rule changes and expect to provide them to the Commission this Fall. In the words of WCA, "it is impossible for the Commission to craft a long-term regulatory regime for the MDS stations in the Gulf until it considers WCA's recommendations for regulating land-based systems."<sup>4</sup>

WCA's proposal casts considerable doubt as to exactly what the regulatory landscape for MDS in the Gulf will look like. While Stratos Offshore supports the introduction of MDS services in the Gulf, it is difficult for it to formulate its business plans for MDS, including a decision whether to participate in an auction, until these new MDS/ITFS industry proposals are made public and considered by the Commission. For example, these new proposals may suggest interference criteria that raise concerns for Stratos Offshore or that contradict the assumptions made by the Commission in the *Gulf MDS NPRM* -- factors that would directly affect Stratos Offshore's view as to the viability of MDS operations in the Gulf. Accordingly, Stratos Offshore concurs with WCA that "administrative efficiency" would be more effectively achieved by holding the *MDS Gulf NPRM* proceeding in abeyance while full consideration is given to the new sweeping proposals to be announced shortly. Delaying consideration of MDS in the Gulf now would ensure that the proposed rules for MDS service in the Gulf include any of the new forthcoming proposed comprehensive changes to MDS and it would also allow parties interested in providing MDS in the Gulf, like Stratos Offshore, to know in what regulatory environment they will operate.

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<sup>4</sup> *Id.* at 4-5.

## **II. BIDDING CREDITS FOR A MDS AUCTION IN THE GULF SHOULD BE LIMITED TO THOSE USED IN PAST MDS AUCTIONS**

As set forth above, Stratos Offshore finds it difficult to comment on the rules proposed in this proceeding in light of the "sweeping" changes to the MDS/ITFS rules that will soon be proposed by the WCA. However, Stratos Offshore believes that it is possible for it to comment on the Commission's proposals with respect to the use of bidding credits. In the *MDS Gulf NPRM*, the Commission proposes to implement a three-tiered bidding credit methodology.<sup>5</sup> Stratos Offshore believes that if the Commission is going to adopt bidding credits at all, it should use the bidding credit methodology implemented in the Commission's earlier MDS auction (Auction No. 6).<sup>6</sup>

In the earlier MDS auction, the Commission offered a fifteen percent bidding credit to small businesses bidding on any of the BTA service areas available in the MDS auction<sup>7</sup> and defined a *small business* as "an entity that together with its affiliates has average annual

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<sup>5</sup> See *MDS Gulf NPRM* at ¶ 26 ("We propose three small business definitions and three levels of bidding credits would provide a variety of business, including local businesses, with opportunities to participate in the auction of licenses for this spectrum, and may also be appropriate to promote opportunities for the provision of services with varying capital costs. Accordingly, we propose to define a very small business as an entity with average annual growth revenues not exceeding \$3 million for the preceding three years, a small business as an entity with average annual gross revenues not exceeding \$15 million for the preceding three years, and an entrepreneur as an entity with average annual gross revenues not exceeding \$40 million for the preceding three years. We further propose to provide very small businesses with a bidding credit of 35%, small businesses with a bidding credit of 25%, and entrepreneurs with a bidding credit of 15%.").

<sup>6</sup> See *In the Matter of Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act -- Competitive Bidding*, 10 FCC Rcd. 9589 (1995).

<sup>7</sup> *Id.* at 9669.

gross revenues that are not more than \$40 million for the preceding three calendar years.”<sup>8</sup>

Stratos Offshore believes that this bidding credit is more than sufficient to encourage the entry of small businesses. Applying this same MDS auction methodology to a Gulf MDS auction would ensure equal treatment for the terrestrial and Gulf MDS. While the NPRM suggests that “changes to the nature and use of MDS, as well as the fact that a wide variety of entities of various sizes may participate in an auction of a Gulf BTA-like service area” justify the use of different designated entity provisions in the proposed MDS/ITFS auction, neither Petitioner nor the NPRM articulated firm reasons why the Commission should depart from its prior precedent.<sup>9</sup>

Stratos Offshore acknowledges that MDS has undergone changes, including the introduction of two-way services, but there is no reason why such a change would warrant the introduction of additional classes of designated entities entitled to bidding credits. Rather than giving a bidding advantage to classes of companies that were not singled out previously by the Commission for MDS auction bidding credits, the Commission should hold firm by applying the same bidding credit policy to all MDS auctions.

### **III. CONCLUSION**

Stratos Offshore looks forward to being able to offer a two-way MDS service in the Gulf in the near future -- a service that promises high speed high data rate capability for companies operating in the Gulf. However, before Stratos Offshore can participate in any auction for MDS spectrum, or formulate its MDS business plan, it needs to know with

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<sup>8</sup> See 47 C.F.R. § 21.961(b)(1).

<sup>9</sup> *MDS Gulf NPRM* at ¶ 26.

reasonable certainty what rules and policies will govern the service in the Gulf. The recent Motion from WCA strongly suggests that radical changes to the MDS/ITFS rules are likely to be introduced soon -- proposals that WCA admits will directly affect licensing of MDS spectrum in the Gulf. In light of this, Stratos Offshore believes that it is in the public interest to defer this proceeding until the new MDS/ITFS industry proposals have been made public and are reviewed and considered by the Commission and interested parties like Stratos Offshore.

With regard to bidding credits for a MDS auction for licenses in the Gulf, Stratos Offshore supports reducing the bidding credits currently proposed by the Commission to the levels previously used by the Commission in a MDS auction.

Respectfully submitted,

**Stratos Offshore Services Company**

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Dated: July 16, 2002